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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,921	06/19/2000	Tom Van Horn	MCTA-005/00US	4483
758	7590	11/02/2004	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			AKERS, GEOFFREY R	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/596,921

**Applicant(s)**

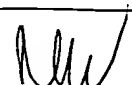
VAN HORN ET AL.

**Examiner**

Geoffrey Akers

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13,26-30,50-58,66-70 and 77-121 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13,26-30,50-58,66-70 and 77-121 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Remarks***

1. This action is issued in reply to applicant's Remarks filed 7/20/04.
2. No claims were amended. None were added. None were deleted.
3. Claims 1-13, 26-30, 50-58, 66-70, 77-121 are pending.

***Claim Rejections - 35 USC § 102***

4. Claims 103, 106, 108-109, 112, 114-115 are rejected under 35 USC 102(e) as anticipated by Oneil(US Pat. No: 5,987,440). The rejections cited in the Non Final Office Action with respect to this element are maintained and referenced.

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5. Claims 6, 53, 55 are rejected under 35 USC 103(a) as unpatentable over O'Neil(US Pat. No: 5,987,440) in view of Maeda(US Pat. No: 5,377,095) and further in view of Shkedy(US Pat. No: 6,260,024). The rejections as cited in the Non Final Office Action with respect to the repeated references are maintained and modified by the new reference in those elements that are appropriate. Here, Maeda teaches generating a demand curve based on offers for the product(Abstract)(Fig 11)(Fig 12)(Fig 13)(Fig 9)(col 6 lines 48-53).

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6. Claims 97-102, 104-105, 107, 110-111, 113, 116 are rejected under 35 USC 103(a) as unpatentable over O'Neil(US Pat. No: 5,987,440) in view of Maeda(US Pat. No: 5,377,095) and official notice. The rejections as cited in the Non Final Office Action with respect to the repeated references are maintained and modified by the new reference in

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those elements that are appropriate. Here, Maeda teaches generating a demand curve based on offers for the product(Abstract)(Fig 11)(Fig 12)(Fig 13)(Fig 9)(col 6 lines 48-53).

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7. Claims 82,84-85,92,94-95 are rejected under 35 USC 103(a) as unpatentable over O'Neil(US Pat. No: 5,987,440) in view of Maeda(US Pat. No:5,377,095) and further in view of Roy(US Pat. No: 6.049,774). The rejections as cited in the Non Final Office Action with respect to the repeated references are maintained and modified by the new reference in those elements that are appropriate. Here, Maeda teaches generating a demand curve based on offers for the product(Abstract)(Fig 11)(Fig 12)(Fig 13)(Fig 9)(col 6 lines 48-53). In addition to that taught by Maeda, Roy teaches dynamic optimization for resource allocation in a market environment where goods and services are demanded by customers over time(Abstract)(col 2 lines 44-59).

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8. Claims 81,91,121 are rejected under 35 USC 103(a) as unpatentable over O'Neil(US Pat. No: 5,987,440) in view of Roy(US Pat. No: 6,049,774) and further in view of Blinn(US Pat. No: 5,999,914). The rejections as cited in the Non Final Office Action with respect to the repeated references are maintained and modified by the new reference in those elements that are appropriate. Here, Roy teaches dynamic optimization for resource allocation in a market environment where goods and services are demanded by customers over time(Abstract)(col 2 lines 44-59).

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9. Claims 79,89,119 are rejected under 35 USC 103(a) as being unpatentable over O'Neil(US Pat. No: 5987,440) in view of Roy(US Pat. No: 6,049,774) and further in view of Pallakoff(US Pat. No: 6,269,343). The rejections as cited in the Non Final Office

Action with respect to the repeated references are maintained and modified by the new reference in those elements that are appropriate. Here, Roy teaches dynamic optimization for resource allocation in a market environment where goods and services are demanded by customers over time(Abstract)(col 2 lines 44-59).

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***Response to Arguments***

10. Applicant's arguments are moot in view of the new grounds of rejection.

***Conclusion***

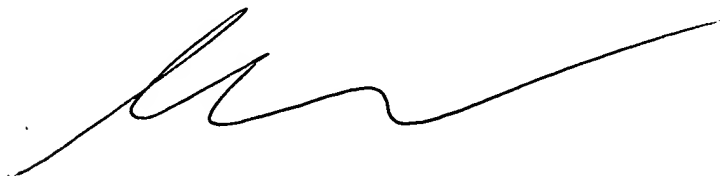
11. **THIS ACTION IS MADE NON-FINAL.**

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12. Any questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mrs. Wynn Coggins, SPE, may be telephoned at (703)-308-1344.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.

October 31,2004



DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER